

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1-36 were previously pending. By way of the present reply, Applicant has amended claims 1, 2, 4-7, and 9-12, canceled claims 3 and 14-36, and added new claims 37-60. Thus, claims 1, 2, 4-13, and 37-60 are presented for consideration..

Newly added claims 37-60 include claims 37-48, drawn to a program product and claims 49-60 drawn to a system. These claims include features corresponding substantially to those recited in method claims 1, 2, and 4-13.

Claim Objections

The Office Action objected to claims 7 and 13 based on a suggested change to the claim language. Applicant has adopted this suggestion.

The Office Action objected to claim 14 under 37 CFR 1.75(c) as being of improper dependent form. In order to advance prosecution, Applicant has canceled claim 14.

In view of the foregoing, it is submitted that all objections to the claims are overcome or rendered moot.

Rejection under § 101

The Office Action rejected claims 31-36 under 35 USC § 101. Applicant has canceled claims 31-36 in order to advance prosecution. Accordingly, this rejection is rendered moot.

Rejection under § 102(a)

The Office Action also rejected claims 31, 35 and 36 under 35 USC § 102(a) as anticipated by Steward et al, US Published Application No. 2002/0152110A1 (“Stewart”). This rejection is also rendered moot in view of the cancellation of these claims.

Rejection under § 103(a)

The Office Action rejects claims 1-5, 9, 11-21 25, 27-30, and 32-34 under § 103(a) as being unpatentable over Stewart in view of Herz, U.S. Patent No. 6,029,195. Applicant respectfully traverses this rejection.

The present invention as reflected in the pending claims provides a unique system and method for assessing and developing a “product”, which may broadly include a variety of methods, services, or articles, either pre-existing or new. While prior methods exist for

seeking respondent feedback on various products, such prior methods often fail to obtain respondents' views in an objective manner absent time-consuming and expensive sampling methods.

According to one aspect of the invention reflected in the present claims, the respondent is prompted to identify an existing product, which the respondent then rates on a metric scale. The respondent's rating provides a baseline, referred to in the specification as a "metric anchor." This feature facilitates gathering of valid and replicable data from the respondent. It permits the respondent to articulate his or her baseline experience on an objective basis. This baseline is then used to rate a different product, from which valid data concerning the second product may be obtained.

According to other aspects of the invention, the respondent may identify an additional product that serves as a baseline. (See claim 2). According to another aspect, the respondent is prompted to revalidate his or her prior rating after receiving additional information. (See claim 4.) Other specific features are recited in the remaining dependent claims.

The Office Action relies principally on Stewart as allegedly teaching various features of the invention as previously claimed. According to the Office Action, this includes Stewart's teaching of a rating for one subject as described at paragraphs 0072-74. However, there is no teaching or suggestion in Stewart of prompting the respondent to identify an existing product, which then may provide a baseline for rating a second different product. Stewart does disclose a technique by which a respondent can select from various graphical depictions of existing products, but it does not disclose prompting the respondent to identify a preexisting product that is then rated, from which rating the user then rates a second product along a metric scale.

Indeed, the Office Action acknowledges that Stewart fails to disclose displaying a visual indicator along a scale corresponding to a different product. While the Office Action relies on Herz as teaching this feature, Applicant respectfully submits that the general disclosure of a sliding bar or indicator as provided in Herz fails to provide a teaching or suggestion of the rating of a second, different product using a metric anchor, in the specific manner reflected in the present claims. Accordingly, the cited combination fails to include all the features of the present invention.

Request for Interview

Applicant requests that the Examiner grant an interview to discuss the present application. Applicant's representative will contact the Examiner to try to schedule a mutually convenient time before the Examiner reexamines the application.

In the meantime, the Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 3/18/2009

By G.C.B.

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 945-6014  
Facsimile: (202) 672-5399

George C. Beck  
Attorney for Applicant  
Registration No. 38,072